

**Introduced by Senator Runner**

February 8, 2006

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An act to amend Section 11102.1 of the Penal Code, relating to fingerprinting.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1247, as introduced, Runner. Fingerprinting: certification.

Existing law requires the Department of Justice to establish and implement a certification program in the Department of Justice for processing fingerprint-based criminal background clearances on individuals who roll fingerprints. Under existing law, law enforcement personnel and state employees are exempt from the requirements of that program if they have received certain training and have undergone a criminal offender record information background investigation.

This bill would add employees of a tribal gaming agency or operation, under certain circumstances, to those who are exempt from the aforementioned requirements.

Existing law prohibits the department from certifying any person who has been convicted of a felony offense or any other offense that involves moral turpitude.

This bill would also require the department to revoke the certification of a fingerprint roller who is convicted of any of those crimes, and would authorize the department to refuse to certify a person who has been arrested for, and is pending adjudication for, any felony or lesser offense that bears on the applicant's ability to perform the duties or responsibilities of a fingerprint roller.

This bill would make additional technical and conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 11102.1 of the Penal Code is amended to read:

11102.1. (a) (1) Notwithstanding any other provision of law, the Department of Justice shall establish, implement, and maintain a certification program to process fingerprint-based criminal background clearances on individuals who roll applicant fingerprint impressions, manually or electronically, for licensure, certification, or employment purposes. Commencing January 1, 2004 non-law-enforcement purposes. Except as provided in paragraph (2), no person shall roll applicant fingerprints for nonlaw-enforcement non-law-enforcement purposes unless certified. Law enforcement personnel and state employees who have received training pertaining to applicant fingerprint rolling and have undergone a criminal offender record information background investigation are exempt from the requirements of this section. The department shall charge a fee sufficient to cover the costs of the certification program.

(2) The following persons shall be exempt from this section if they have received training pertaining to applicant fingerprint rolling and have undergone a criminal offender record information background investigation:

(A) Law enforcement personnel and state employees.

(B) Employees of a tribal gaming agency or a tribal gaming operation, provided that the fingerprints are rolled and submitted to the Division of Gambling Control in the Department of Justice for purposes of compliance with a tribal-state compact.

(3) The department shall not accept fingerprint impressions for non-law-enforcement purposes unless they were rolled by an individual certified or exempted pursuant to this section.

(b) Individuals who roll fingerprint impressions, either manually or electronically, for individuals who are being fingerprinted for applicant licensure, certification, or employment non-law-enforcement purposes, must submit to the Department of Justice, manually or electronically, two sets of fingerprints fingerprint images and related information, along with the appropriate fees and documentation. The department shall retain one copy of the fingerprint impressions to process a state level criminal background clearance, and it shall submit one

1 copy of the fingerprint impressions to the Federal Bureau of  
2 Investigation to process a federal level criminal background  
3 clearance.

4 (c) The department shall retain the fingerprint impressions for  
5 subsequent arrest notification pursuant to Section 11105.2.

6 (d) Every individual certified as a fingerprint roller shall meet  
7 the following criteria:

8 (1) Be a legal resident of this state at the time of certification.

9 (2) Be at least 18 years of age.

10 (3) Have satisfactorily completed a notarized written  
11 application prescribed by the department to determine the fitness  
12 of the person to exercise the functions of a fingerprint roller.

13 (e) Prior to granting a certificate as a fingerprint roller, the  
14 department shall determine that the applicant possesses the  
15 required honesty, credibility, truthfulness, and integrity to fulfill  
16 the responsibilities of the position. ~~To assist in determining the~~  
17 ~~identity of the applicant, the department shall require that~~  
18 ~~applicants submit fingerprint images and related information.~~

19 (f) ~~(1) The department shall not refuse to certify any~~  
20 ~~individual who has been convicted of either any felony offense or~~  
21 ~~any as a fingerprint roller, and shall revoke the certification of~~  
22 ~~any fingerprint roller, upon either of the following:~~

23 ~~(A) Conviction of a felony offense.~~

24 ~~(B) Conviction of any other offense that involves both involves~~  
25 ~~moral turpitude, dishonesty, or fraud, and bears on the~~  
26 ~~applicant's ability to perform the duties or responsibilities of a~~  
27 ~~fingerprint roller. The certification shall be revoked if, at any~~  
28 ~~time, the individual is convicted of either any felony offense, or~~  
29 ~~any other offense that involves both moral turpitude, dishonesty,~~  
30 ~~or fraud, and bears on the applicant's ability to perform the duties~~  
31 ~~or responsibilities of a fingerprint roller.~~

32 ~~(2) A conviction after a plea of nolo contendere is deemed to~~  
33 ~~be a conviction for purposes of this subdivision.~~

34 (g) In addition to subdivision (f), the department may refuse to  
35 certify any individual as a fingerprint roller ~~or make, revoke, and~~  
36 ~~may revoke~~ or suspend the certification of any fingerprint roller  
37 upon any of the following:

38 (1) Substantial and material misstatement or omission in the  
39 application submitted to the department.

~~(2) If the individual has been convicted of or is awaiting adjudication for a felony or a lesser offense involving moral turpitude, or a lesser offense of a nature incompatible with the duties of a fingerprint roller. A conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this subdivision. Arrest pending adjudication for a felony.~~

~~(3) Arrest pending adjudication for a lesser offense that both involves moral turpitude, dishonesty, or fraud, and bears on the applicant's ability to perform the duties or responsibilities of a fingerprint roller.~~

~~(3)–~~  
(4) Revocation, suspension, restriction, or denial of a professional license, if the revocation, suspension, restriction, or denial was for misconduct, dishonesty, or for any cause substantially related to the duties or responsibilities of a fingerprint roller.

~~(4)–~~  
(5) Failure to discharge fully and faithfully any of the duties or responsibilities required of a fingerprint roller.

~~(5)–~~  
(6) ~~When~~ adjudged liable for damages in any suit grounded in fraud, misrepresentation, or in violation of the state regulatory laws, or in any suit based upon a failure to discharge fully and faithfully the duties of a fingerprint roller.

~~(6)–~~  
(7) Use of false or misleading advertising in which the fingerprint roller has represented that he or she has duties, rights, or privileges that he or she does not possess by law.

~~(7)–~~  
(8) Commission of any act involving dishonesty, fraud, or deceit with the intent to substantially benefit the fingerprint roller or another, or to substantially injure another.

~~(8)–~~  
(9) Failure to submit any remittance payable upon demand by the department under this section or failure to satisfy any court ordered money judgment, including restitution.

(h) ~~Commencing January 1, 2004, the department shall not accept applicant fingerprint impressions, manually or electronically, unless they were rolled by an individual certified~~

1 under the Department of Justice Fingerprint Rolling Certification  
2 Program.

3 (i) The Department of Justice shall work with applicant  
4 regulatory entities to improve and make more efficient the  
5 criminal offender record information request process related to  
6 employment, licensing, and certification background  
7 investigations.

8 (j) —

9 (i) The Department of Justice may adopt regulations as  
10 necessary to implement the provisions of this section.

11 (j) *The department shall charge a fee sufficient to cover its*  
12 *costs under this section.*